

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Thomas L. Mercedith
Serial No.: 09/615,643
Filed: July 13, 2000
For: Composite Bone Material Implant And Prosthesis
Group Art Unit: 3738
Examiner: Brian E. Pellegrino
Attorney's Docket No.: N6089
Customer No.: 23456

REVISED DECLARATION UNDER 37 C.F.R. § 1.131

Commissioner for Patents
Washington, DC 20231

Dear Sir:

Thomas L. Mercedith, Applicant in the above-identified application,
declares as follows:

(1) I have read and understand the Office Action mailed on March 21, 2002 in connection with the above-identified application. More specifically, I have read and understood the Boyce, et al. patent (U.S. 6,294,187), cited by the Examiner. I understand that the Boyce, et al. patent issued on September 25, 2001, and has an effective filing date of February 23, 1999.

(2) Attachment A is a photocopy of a sample of solid bone composite created and sealed prior to January 7, 1999. The solid bone composite sample comprises ground bone tissue, wherein the ground bone tissue includes an organic matrix and is substantially cortical bone tissue, and a binder selected from cyanoacrylate or fibrin, namely cyanoacrylate. This solid bone composite sample was produced by providing bone tissue, grinding the bone tissue to 125

to 850 microns in size, molding the ground bone tissue into a bone composite, introducing a cyanoacrylate binder to the bone composite, allowing the bone composite to cure, and refining the bone composite into the desired shape. This solid bone composite sample is pictured possessing a "half moon" shape in Attachment A. If needed, Applicant can provide the scaled solid bone composite sample to the Examiner.

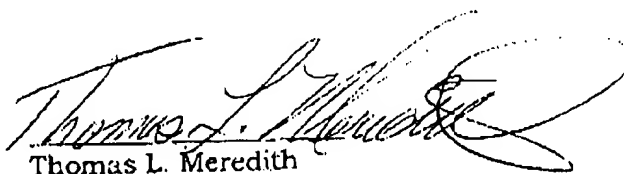
(3) Attachment B is a memo dated January 19, 1999 describing a bone composite created using ground bone tissue and a Pasco-Fix binder. As noted on Attachment B, Pasco-Fix is a cyanoacrylate binder. The memo details conditions at which the bone composite was created and test results obtained with the bone composite.

(4) Attachment C is a description of the solid bone composite dated April 19, 2000. The description details the process of making a solid bone composite. The solid bone composite was made as of January 16, 1999 and comprises ground cortical bone tissue and a cyanoacrylate or fibrin binder. This solid bone composite sample was produced by providing demineralized cortical bone tissue, grinding the bone tissue, molding the ground bone tissue into a bone composite or matrix, introducing a cyanoacrylate or fibrin binder to the bone composite, curing the bone composite into a solid structure, and refining the bone composite into the desired shape.

(5) As can be substantiated by the attachments, prior to February 23, 1999, I conceived and reduced to practice the invention that is the subject matter of the above-identified application. It is clear that the present invention

was conceived and reduced to practice at least as early as January of 1999, a date prior to the effective filing date of the Boyce, et al. patent relied upon by the Examiner in the outstanding Office Action.

(6) I further state that the above statements were made with the knowledge that willful false statements and the like are punishable by fine and/or imprisonment, or both, under § 1001 of Title XVIII of the U.S. Code, and any such willful false statements may jeopardize the validity of this application or any patent resulting therefrom.


Thomas L. Meredith

12/04/02
Date

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